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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

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U. S. Department of Agriculture

NOTICES OF JUDGMENT UNDER THE INSECTICIDE ACT

[Given pursuant to section 4 of the insecticide act]

1221-1225

[Approved by the Secretary of Agriculture, Washington, D. C., April 28, 1932]

1221. Misbranding of Drain Aid. U. S. v. George H. Garnet (The Geo. H. Garnet Co., Wyeth Supply Co.). Plea of guilty. Fine, \$50. (I. & F. No. 1545. Dom. Nos. 15770, 20171.)

Examination of samples of Drain Aid showed that it was labeled as being effective, among other things, as a drain disinfectant, whereas it would not disinfect drains when used as directed. The article contained inert ingredients, i. e., substances which did not possess fungicidal properties, and the label failed to declare the inert ingredients in manner prescribed by law.

On August 10, 1931, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against George H. Garnet, Allentown, Pa., charging shipment in interstate commerce of quantities of Drain Aid, which was a misbranded fungicide within the meaning of the insecticide act of 1910. Two shipments by the said defendant were charged, one on or about November 14, 1930, under the name of the Geo. H. Garnet Co., into the State of Massachusetts, and one on or about November 22, 1930, under the name of the Wyeth Supply Co., into the State of New York.

Misbranding of the article was alleged for the reason that the statement, "Drain Aid * * * Disinfects," borne on the label affixed to the packages containing the said article, was false and misleading; and by reason of the said statement the article was labeled and branded so as to deceive and mislead the purchaser, in that it represented that the article when used as directed would disinfect drains, whereas it would not disinfect drains when used as directed.

Misbranding was alleged for the further reason that the article consisted partially of inert substances or ingredients, to wit, substances other than sodium hydroxide, sodium carbonate, and pine oil, that is to say, substances that do not prevent, destroy, repel, or mitigate fungi, and the name and percentage amount of each of the said inert substances so present therein were not stated plainly and correctly on the label affixed to each of the packages containing the article; nor, in lieu thereof, were the name and percentage amount of each substance having fungicidal (bactericidal) properties, and the total percentage of inert substances so present in the article, stated plainly and correctly on the said label.

The interstate shipment of the product also involved a violation of the Federal caustic poison act (C. P. A. No. 2, N. J. No. 2), both violations being covered by one information. On October 14, 1931, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50 as penalty for violation of both acts.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1222. Adulteration and misbranding of Plantgard No. 1 and Plantgard No. 2. U. S. v. 115 1/2 Dozen Packages of Plantgard No. 1, et al. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1563. S. No. 253.)

Examination of samples of Plantgard No. 1 and Plantgard No. 2, products intended for use as insecticides and fungicides, showed that the articles contained smaller proportions of sulphur, naphthalene, and sodium silicofluoride, and larger proportions of inert ingredients, than declared on the labels. Plantgard No. 2 was ineffective for certain insecticidal purposes for which it was recommended.

On January 7, 1932, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 115 $\frac{1}{4}$ dozen packages of Plantgard No. 1 and 929 $\frac{1}{2}$ dozen packages of Plantgard No. 2. It was alleged in the libel that the articles had been shipped by National Products (Inc.), Quincy, Ill., on or about May 23, 1929, to New Orleans, La., that having been so transported they remained unsold in the original unbroken packages at New Orleans, La., and that they were adulterated and misbranded insecticides and fungicides within the meaning of the insecticide act of 1910.

Adulteration of the articles was charged in the libel for the reason that the statements, "Active Ing.—Sulphur 17.8%; Naphthalene 7.0%; Sodium silicofluoride, 9.6%. * * * Inert Ing.—65.6%," with respect to the Plantgard No. 1, and the statements, "Active Ing.—Sulphur 14.8%; Naphthalene 3.0%; Sodium silicofluoride 14.3%. Inert Ing.—67.9%," with respect to the Plantgard No. 2, borne on the packages containing the articles, represented that the standard and quality of the articles were such that they contained sulphur, naphthalene, and sodium silicofluoride in the proportions declared on the labels, and contained inert ingredients, that is to say, substances that do not prevent, destroy, repel, or mitigate insects or fungi, in the proportions declared; whereas the strength and purity of the articles fell below the professed standard and quality under which they were sold, in that they contained less sulphur, less naphthalene, and less sodium silicofluoride, and more inert ingredients than so declared.

Misbranding was alleged for the reason that the statements appearing on the labels, as above quoted, were false and misleading; and by reason of the said statements the articles were labeled and branded so as to deceive and mislead the purchaser, since the said articles contained less sulphur, less naphthalene, less sodium silicofluoride, and more inert ingredients than declared on the said labels. Misbranding of Plantgard No. 1 was alleged for the further reason that the statements regarding the article, to wit, "Plantgard is not a hit-or-miss mixture, but a scientifically devised formula that combines in one preparation * * * fungicidal * * * properties," borne on the label, were false and misleading in that the said statements represented that the article when used as directed was a satisfactory fungicide; whereas the said article when used as directed was not a satisfactory fungicide. Misbranding of Plantgard No. 2 was alleged for the further reason that the statements, to wit, "Is to be used against certain garden pests, including cabbage worms, potato beetles, bean beetles, * * * as well as many insects that infest pumpkin, cucumber and melon vines, shrubbery, flowering plants and vegetables. Plantgard is not a hit-or-miss mixture, but a scientifically devised formula that contains the repellent properties of naphthalene, the fungicidal properties of sulphur, and the insecticidal properties of sodium silicofluoride. * * * A dust pump that can be adjusted to dust on the under side of the leaves is a great convenience, especially in controlling the Mexican bean beetle," borne on the labels, were false and misleading; and by reason of the said statements the article was labeled and branded so as to deceive and mislead the purchaser, in that they represented that the article when used as directed would be effective against cabbage worms, potato beetles, bean beetles, and many insects that infest pumpkin, cucumber, and melon vines, shrubbery, flowering plants, and garden vegetables; would be effective against all insects which are controllable with naphthalene, sulphur, and sodium silicofluoride; would be effective against fungous diseases of plants which are controllable with sulphur, and would be effective against the Mexican bean beetle; whereas the article when used as directed would not be effective for the said purposes.

On February 12, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1223. Misbranding of Carbicide. U. S. v. Seventy 1-Gallon Cans of Carbicide. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1555. S. No. 246.)

Sample cans of Carbicide, a product sold as an insecticide, having been found to contain less than the volume declared on the label, the Secretary of Agriculture reported the matter to the United States attorney for the District of Delaware.

On or about August 24, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of seventy 1-gallon cans of Carbicide. It was alleged in the libel that the article had been shipped on or about May 27, 1931, by the Chemical Insecticide Service (Inc.), from Montgomery, Pa., into the State of Delaware, that having been so transported it remained unsold in the original unbroken packages at Hockessin, Del., and that it was a misbranded insecticide within the meaning of the insecticide act of 1910.

Misbranding of the article was alleged in the libel for the reason that the statement, "1 Gallon Net," borne on the label affixed to the cans containing the said article, represented that the cans each contained 1 gallon net of the article; whereas the quantity of contents of each of the said packages was not stated plainly and correctly on the outside of the packages, in that each of the cans contained less than 1 gallon net of the said article.

On December 31, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1224. Adulteration and misbranding of Ucco. U. S. v. 37 Gallons of Ucco. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1531. S. No. 225.)

Examination of a product intended for use as an insecticide, and sold under the name of "Ucco," showed that the article contained a much larger proportion of water than declared on the label.

On November 17, 1930, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 37 gallons of the said Ucco. It was alleged in the libel that the article had been shipped on or about April 1, 1930, by the Union Control Corporation, from Coudersport, Pa., into the State of Maine, that having been so transported it remained unsold in the original unbroken packages at Biddeford, Me., and that it was an adulterated and misbranded insecticide within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that the statement, "Inert Ingredient—Water, not over 25%," borne on the label, represented that the said article contained an inert ingredient, water, in the proportion of not more than 25 per cent; whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, in that it contained the inert ingredient, water, in a proportion much greater than 25 per cent. Adulteration was alleged for the further reason that the statement aforesaid, appearing on the label, represented that the article contained inert ingredients, that is to say, substances that do not prevent, destroy, repel, or mitigate insects, in the proportion of not more than 25 per cent; whereas it did not contain inert ingredients in the proportion of not more than 25 per cent, but another substance, water, had been substituted in part for the article.

Misbranding was alleged for the reason that the statement on the label, "Inert Ingredient—Water not more than 25%," was false and misleading; and by reason of the said statement the article was labeled and branded so as to deceive and mislead the purchaser, in that it represented that the article contained the inert ingredient, water, in the proportion of not more than 25 per cent; whereas it contained water in a proportion much greater than 25 per cent.

On February 5, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

1225. Adulteration and misbranding of Ansbor Green. U. S. v. Thirteen 100-Pound Drums of Ansbor Green. Default decree of condemnation, forfeiture, and destruction. (I. & F. No. 1556. S. No. 250.)

Examination of samples of Ansbor Green, a product sold as an insecticide and fungicide, showed that the article contained less Paris green, one of the active ingredients, and more inert matter, the ineffective ingredients, than represented in the labeling.

On September 3, 1931, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of thirteen 100-pound drums of Ansbach Green. It was alleged in the libel that the article had been shipped on or about March 12, 1931, by the Ansbacher Insecticide Co. (Inc.), from Brooklyn, N. Y., into the State of Virginia, that having been so transported it remained unsold in the original unbroken packages at Machipongo, Va., and that it was an adulterated and misbranded insecticide and fungicide within the meaning of the insecticide act of 1910.

Adulteration of the article was alleged in the libel for the reason that the statements, to wit, "Ansbacher's Paris Green 38% to 40% * * * Inert Ingredients 49% to 53%," borne on the label affixed to the drums containing the said article, represented that its standard and quality were such that it contained Paris green in the proportion of not less than 38 per cent, and contained inert ingredients, namely, substances that do not prevent, destroy, repel, or mitigate insects and fungi, in the proportion of not more than 53 per cent; whereas the strength and purity of the article fell below the professed standard and quality under which it was sold, in that it contained less than 38 per cent of Paris green and more than 53 per cent of inert ingredients.

Misbranding was alleged for the reason that the statements, "Ansbacher's Paris Green 38% to 40% * * * Inert Ingredients 49% to 53%," borne on the label, were false and misleading; and by reason of the said statements the article was labeled so as to deceive and mislead the purchaser, in that they represented that the article contained not less than 38 per cent of Paris green, and not more than 53 per cent of inert ingredients; whereas the said article contained less than 38 per cent of Paris green, and more than 53 per cent of inert ingredients.

On November 4, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

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